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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

B. VEASLEY, a minor, by and through her Guardian ad Litem, RODNEY VEASLEY; and MILDRED VEASLEY,)	CASE NO. '12CV3053 WQHWVG
Plaintiffs,)	COMPLAINT FOR PERSONAL INJURIES
v.)	Federal Tort Claims Act
UNITED STATES OF AMERICA, and)	28 U.S.C. Section 2671, <i>et seq.</i>
DOES 1 through 20, inclusive,)	28 U.S.C. Section 1346(b), <i>et seq.</i>
Defendants.)	28 U.S.C. Section 1367
)	28 U.S.C. 1402(b), <i>et seq.</i>

COME NOW plaintiffs, B. VEASLEY, a minor, by and through her Guardian ad Litem, RODNEY VEASLEY; and MILDRED VEASLEY, and for causes of action against defendants, allege as follows:

INTRODUCTION

1. The injuries and damages upon which this action is based occurred at the Naval Hospital Camp Pendleton and Naval Medical Clinic in Camp Pendleton, California.
2. RODNEY VEASLEY is the minor plaintiff's father. At the time of the events leading to this action he was on active duty with the United States Marine Corps. His dependents are therefore entitled to receive medical care from defendant UNITED STATES OF AMERICA.

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1 3. Plaintiff MILDRED VEASLEY ("MS. VEASLEY") has been married to
2 RODNEY VEASLEY for ten (10) years, and was married to RODNEY VEASLEY at all
3 times relevant to this complaint. Plaintiff MS.VEASLEY is therefore entitled to receive
4 medical care from defendant UNITED STATES OF AMERICA.

5 4. Plaintiff B. VEASLEY is a dependent child of RODNEY VEASLEY, and as
6 such is entitled to receive medical care from defendant UNITED STATES OF AMERICA.

7 5. At all times herein mentioned, defendant UNITED STATES OF AMERICA
8 was, and now is, a sovereign entity responsible for the management and operation of the
9 Naval Hospital and Naval Medical Clinic, in Camp Pendleton, California.

10 6. This action is brought under the provisions of the Federal Tort Claims Act, 28
11 U.S.C. Section 2671, *et seq.*, and 28 U.S.C. Section 1346(b), *et seq.*, to provide subject
12 matter jurisdiction. Further, this court has supplemental jurisdiction over DOE defendants 1
13 through 20 in accordance with 28 U.S.C. Section 1367.

14 7. On or about January 28, 2011, plaintiffs B. VEASLEY and MS. VEASLEY
15 submitted a claim to the Department of the Navy, Tort Claims Unit. Defendant UNITED
16 STATES OF AMERICA denied said claim on July 6, 2012.

17 8. The residence and domicile of plaintiffs MS. VEASLEY and B. VEASLEY
18 was at all times applicable the County of San Diego, State of California, Southern District of
19 California, in accordance with 28 U.S.C. Section 1402(b).

20 9. The amount in controversy herein, exclusive of interest and costs, exceeds the
21 sum of \$10,000.00.

22 10. The true names and capacities, whether individual, corporate, associate, or
23 otherwise of defendants DOES 1 through 10, inclusive, are unknown to plaintiffs, who
24 therefore sue said defendants by such fictitious names. Plaintiffs will amend this complaint
25 to show the true names and capacities when they have been ascertained. Plaintiffs are
26 informed and believe, and thereon allege, that each of the defendants designated herein as a
27 DOE is legally responsible in some manner for events and happenings herein referred to and
28 caused the damages herein alleged.

11. The acts and conduct herein alleged were performed by defendants, or agents and employees of defendants acting in the course and scope of said agency and employment and with the knowledge and consent of defendants. Further, defendants are estopped from denying their liability for the facts and conduct alleged as a result of their affirmative misrepresentation and affirmative concealment of material facts regarding the circumstances giving rise to plaintiffs' injuries, including but not limited to acts of evasion, falsehood, and the alteration of documents relating to the identity and status of personnel who provided care and treatment to plaintiffs B. VEASLEY, and MS. VEASLEY.

FACTS RELEVANT TO ALL CAUSES OF ACTION

12. On or about September 9, 2008, MS. VEASLEY came under the care and treatment of defendants for placement of an intrauterine device (IUD), a form of birth control. Defendant performed a urine test for pregnancy at the clinic which came back negative and it inserted an IUD without difficulty.

13. On October 31, 2008, MS. VEASLEY again presented to the Camp Pendleton medical clinic to have her IUD and pregnancy test results checked with suspicion that she was pregnant. A pelvic ultrasound was conducted which confirmed the presence of one fetus. The IUD, placed only six weeks earlier, could not be seen on the ultrasound.

14. MS. VEASLEY was asked to return to return the following week for an ultrasound to identify the location of the IUD. A second ultrasound was performed and no IUD found.

15. The examining physician's Assessment and Plan notes state that plaintiff had a misplaced IUD, likely expelled soon after placement, and that she should be followed by OB for supervision of normal pregnancy.

16. Maintaining a pregnancy with an IUD in place put MS. VEASLEY and B. VEASLEY at risk.

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1 17. On or about January 10, 2009, MS. VEASLEY began to experience cramping
2 and contractions she believed was related to her pregnancy. She was seen the following
3 evening at the Naval Medical Center on Camp Pendleton and, after an examination, was
4 diagnosed with false labor and sent home. She was released without limitation.

5 18. After returning home from her medical visit, MS. VEASLEY continued to
6 have cramping and pain throughout the night.

7 19. The following morning, January 12, 2009, MS. VEASLEY noticed blood in
8 the toilet after urinating. She also noted that her contractions and pain were increasing, so
9 she returned to the Naval Medical Center on Camp Pendleton. After an ultrasound and other
10 testing was performed, MS. VEASLEY was reassured that the bleeding and cramping was
11 not serious, and that B. VEASLEY was not at risk, and she was discharged home without
12 limitation.

13 20. Throughout the day on January 12, 2009, MS. VEASLEY continued to cramp
14 and bleed, and after a small "gush of blood" in the late afternoon she called the Naval
15 Medical Center at Camp Pendleton to advise. Over the phone, caregivers instructed MS.
16 VEASLEY to "rest and hydrate." No other instructions were given.

17 21. Later that evening, as cramping and bleeding worsened, MS. VEASLEY
18 presented to Medical Center at Camp Pendleton again. Testing was performed, revealing
19 pooling of blood in the posterior fornix, and bright blood was noted to be oozing from the
20 cervix. MS. VEASLEY was sent home and advised to go on bed rest with "complete pelvic
21 rest" until week 25 of her pregnancy.

22 22. Over the next week, MS. VEASLEY continued to experience cramping and
23 bleeding.

24 23. On or about January 23, 2009, she presented to Naval Medical Center on
25 Camp Pendleton as a follow up to her earlier visits. She reported her continued cramping
26 and vaginal bleeding. An exam was performed and MS. VEASLEY was sent home on bed
27 rest. She was promised she would be followed closely.

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1 24. Two days later, on January 25, 2009, MS. VEASLY returned to Naval
2 Medical Center on Camp Pendleton for continuing worsening vaginal bleeding and
3 contractions. She was discharged without medications and sent home.

4 25. At approximately 8:30 a.m. on January 28, 2009, MS. VEASLEY walked to
5 the Naval Medical Center on Camp Pendleton in disabling pain, suffering contractions, and
6 continued (and increasing) vaginal bleeding. She was examined, and again sent home with
7 no further treatment. Before leaving, MS. VEASLEY's husband RODNEY VEASLEY
8 asked if he could obtain a second opinion after so many visits to the hospital with no
9 explanation of the cause of MS. VEASLEY's continued bleeding and contractions, but he
10 was informed by the hospital staff that it "wasn't sure" how to obtain a second opinion.

11 26. On the morning of January 30, 2009, MS. VEASLEY awoke to heavy
12 contractions and continued bleeding. Her husband called the Naval Medical Center on
13 Camp Pendleton and explained what was going on, and asked if there were any pain
14 medications MS. VEASLEY could take. He was told no. At approximately 7:30 a.m., MS.
15 VEASLEY began to scream in pain, so RODNEY VEASLEY, tired of getting no help from
16 the on-base healthcare providers, called 911.

17 27. While paramedics were in route, MS. VEASLEY, with the help of her
18 husband, spontaneously delivered B. VEASLEY, on the family bed. B. VEASLEY was
19 born prematurely at only 23 6/7 weeks and weighed 1 lb., 8oz.

20 28. B. VEASLEY was transported by helicopter to Rady's Children's Hospital,
21 where she was diagnosed with a brain hemorrhage and required a ventilator.

22 29. MS. VEASLEY was taken via ambulance to Naval Medical Center on Camp
23 Pendleton, where pitocin was promptly administered, causing her to discharge two large
24 clots, one of which contained the IUD.

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30. Because of extreme low birth weight and prematurity resulting in multisystem problems, including but not limited to, respiratory problems, brain hemorrhage, anemia, jaundice, sepsis, kidney problems, eye problems, and electrolyte imbalance, B. VEASLEY has suffered permanent neurologic damage as a result of brain bleeding and hypotension/respiratory distress, causing permanent motor and cognitive deficits.

FIRST CAUSE OF ACTION

(Negligence)

31. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 30, herein above, as though set forth fully herein.

32. Defendants so negligently and carelessly cared for and treated, as well as negligently supervised the care and treatment of, plaintiffs B. VEASLEY and MILDRED VEASLEY, so as to cause plaintiffs to suffer severe injuries.

33. The negligence and carelessness of defendants, in both the placement of an IUD and in providing prenatal care, consisted of the failure to use, and to insist upon the use of, that degree of skill and care ordinarily used by health care professionals engaged in the practice of their profession in the same or similar locality and under the same or similar circumstances.

34. As a legal result of the negligence and carelessness of defendants, plaintiff B. VEASLEY was born prematurely, and was hurt and injured in her health, strength, and activity, sustaining injuries to her body and shock and injury to her nervous system and person, all of which have caused, and continue to cause her permanent injury in her health and physical ability, and will cause plaintiff mental, physical, and nervous pain and suffering, fright, grief, anxiety, and apprehension, all to her general damage in an amount in excess of \$10,000.00.

35. As a legal result of the negligence and carelessness of defendants, plaintiff MILDRED VEASLEY was hurt and injured in her health, strength, and activity, sustaining injuries to her body and shock and injury to her nervous system and person, all of which have caused, and continue to cause plaintiff permanent injury in her health, and will cause

1 plaintiff mental, physical, and nervous pain and suffering, fright, grief, anxiety, and
2 apprehension, all to her general damage in an amount in excess of \$10,000.00.

3 36. As a further legal cause of the negligence and carelessness on the part of
4 defendants, plaintiffs were each required to and did incur medical, nursing, and incidental
5 expenses and were each further required to employ the services of friends and family
6 members to provide nursing and related services. The exact amount of such expenses are
7 unknown to plaintiffs at this time inasmuch as the same is continuing and plaintiffs will seek
8 leave of the court to prove said amount at the time of trial.

9 37. As a further legal result of the negligence and carelessness on the part of
10 defendants, plaintiff B. VEASLEY was permanently hurt and injured in her health and
11 physical ability, thereby causing a loss of future earnings, all to her damage in an amount to
12 be proven at the time of trial.

13 38. As a further legal result of the negligence and carelessness on the part of
14 defendants, plaintiff B. VEASLEY was permanently hurt and injured in her health and
15 physical ability, thereby creating the need for future care, both medical and life care needs,
16 all to her damage in an amount to be proven at the time of trial.

17 **SECOND CAUSE OF ACTION**

18 **(Negligent Infliction of Emotional Distress)**

19 39. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
20 through 38, herein above, as though set forth fully herein.

21 40. Plaintiff MS. VEASLEY is the mother of plaintiff B. VEASLEY. Plaintiff
22 MS. VEASLEY retained the services of defendants, and each of them, to handle the
23 circumstances of her prenatal care, her labor, and her delivery. She was awake during the
24 traumatic delivery of her child on January 30, 2009. As a result of the negligence of the
25 defendants, and each of them, plaintiff MS. VEASLEY witnessed, observed, and
26 experienced injuries caused when defendants failed to address her medical needs, and those
27 of B. VEASLEY, in a non-negligent manner during the final weeks of her pregnancy.
28 Furthermore, she observed and witnessed the injuries being inflicted on her child and was

1 then aware that they were as a result of the negligence of the defendants. Defendants, and
2 each of them, breached the duty arising from their professional and fiduciary relationship
3 with plaintiff MS. VEASLEY.

4 41. As a direct result of the conduct of the defendants, and each of them, plaintiff
5 MS. VEASLEY has suffered severe emotional and psychological distress as a result of the
6 sensory and contemporaneous observation of her and her child's injuries.

7 42. As a further direct result of the aforementioned conduct of defendants, and
8 each of them, plaintiff MS. VEASLEY has suffered, and continues to suffer, injury to her
9 health, strength, and activity, and continues to suffer severe psychological and emotional
10 injury, shock, chagrin, worry, fright, apprehension, and depression of a permanent and
11 lasting nature.

12 **PRAYER**

13 WHEREFORE, plaintiffs pray judgment against defendant as follows:

- 14 1. For general and special damages as to plaintiffs MILDRED VEASLEY and B.
15 VEASLEY in an amount to be proven at the time of trial;
16 2. For future medical and life care expenses;
17 3. For pre-judgment interest as allowed by law;
18 4. For costs of suit incurred herein, and
19 5. For such other and further relief as the court may deem just and proper.
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21 DATED: December 21, 2012

WALTON LAW FIRM

22 By: s/Randall R. Walton
23 Randall R. Walton
24 Attorney for Plaintiffs
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27
28

JS 44 (Rev. 09/11)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Veasley, Brianna
Veasley, Mildred

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Randall R. Walton, Esq., **WALTON LAW FIRM**
338 Via Vera Cruz, Suite 250, San Marcos, CA 92078.
Ph: (760) 571-5500

DEFENDANTS

United States of America

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

'12CV3053 WQHWVG

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input checked="" type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1346(b)

Brief description of cause:

Personal injuries caused by negligence/medical malpractice

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12/21/2012

SIGNATURE OF ATTORNEY OF RECORD

s/Randall R. Walton

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____